

OGC Has Reviewed

United States, to Use of Parravicino, v. Brunswick et al,
69 F.(2d) 383 (Court of Appeals, District of Columbia, 1934).

This was a suit by the plaintiff in the name of the United States against a consul and his surety alleging violation of the consul's duty to make truthful, accurate and impartial reports to the State Department. Plaintiff alleges that the consul in such a report to the State Department made defamatory statements regarding the plaintiff, who was engaged in business in the consul's district, to the effect that the plaintiff bore a poor reputation and was otherwise unworthy of credit. It was further alleged that the report was transmitted to the Department of Commerce, which in turn disseminated it among various business concerns in the United States. Brunswick was the American Consul in the Barbados where the plaintiff was an importer.

Pursuant to Consular Regulations, the defendant, as consul, was required to make an annual confidential report regarding persons and firms engaged in business within his district, including their general reputation. This information was to be transmitted through the Department of State to the Bureau of Domestic and Foreign Commerce for use in compiling a ~~worldwide~~ "World Trade Directory". The report was made as a confidential communication required by the Government to be used for a legitimate governmental purpose. It was transmitted to the Secretary of State, as required by statute, to be used for lawful governmental purposes. Under such conditions, the Court held that the consul enjoyed an

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absolute privilege and could not be held to answer in an action for libel based upon his report.

It was contended that in respect to communications made by executive officers, absolute privilege is granted only to the chief officers of the Government and not to declaration of subordinates. This contention was rejected on the authority of *De Arnaud v. Ainsworth*.

"In the present case the consul made no publication of the statements complained of but communicated them in confidence to his superiors in the government service. . .The communications were made in the performance of an important public service and in such case the consul must be able to rely upon the confidential character thereof, in order that he may freely and accurately answer the questions which are addressed to him."

The Court, therefore, affirmed the dismissal of plaintiff's complaint.